

## DIARY FOR SEPTEMBER.

1. Sun.....*Eleventh Sunday after Trinity.*
2. Mon.....Long vacation ends. Trinity term commences.
3. Tues.....Court of Appeal Sittings begin. Sir Edward Coke died, 1634, at 82.
5. Thu.....Chancery Division High Court of Justice sits.
8. Sun.....*Twelfth Sunday after Trinity.*
9. Mon.....General Sessions and County Court Sittings for Trial in York.
12. Thu.....Frontenac, Governor of Canada, 1692.
13. Fri.....Quebec taken and death of Wolfe, 1759.
14. Sat.....Trinity term ends. Last day for call notices for Michaelmas Term. Sir J. S. Copley (Lord Lyndhurst), Master of the Rolls, 1826.
15. Sun.....*Thirteenth Sunday after Trinity.*
17. Tues.....First Parliament of Upper Canada met at Niagara, 1792.
18. Wed.....Quebec surrendered to the British, 1759.
22. Sun.....*Fourteenth Sunday after Trinity.*
28. Sat.....W. H. Blake, First Chan. U. C., 1849.
29. Sun.....*Fifteenth Sunday after Trinity.*

## Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE  
FOR ONTARIO.HIGH COURT OF JUSTICE FOR  
ONTARIO.

## Queen's Bench Division.

Div'l Ct.]

[June 22.]

LUPTON v. RANKIN.

*Way—Access to road—Rights of way over adjoining lots—Rights of mortgagees—Way of necessity—Extinguishment by unity of possession—Revival on termination of possession.*

C. conveyed to R. fifty acres of land and also a strip twenty feet wide to the south of it to give access from the fifty acres to the town line. R. mortgaged to C. the fifty acres but not the twenty feet strip, and then conveyed the strip to N. Afterwards R. conveyed the fifty acres to his son subject to the mortgage to C., and on the same day gave him the occupation under an agreement for sale of the adjoining fifty acres to the west. The son mortgaged to the plaintiff the fifty acres conveyed to him. During the possession of R. and his son they got access from the east fifty acres to the side line through the west fifty acres. The agreement for sale of the west fifty acres to the son having been cancelled, and R. having refused to allow a tenant of his son of the east fifty acres access to the side line through the west fifty acres, the

plaintiff brought this action against R., C., and N., for a declaration as to the existence of a right of way through the strip conveyed to N or of a way of necessity through the west fifty acres, and for other relief.

*Held*, that if a right of way did pass to C. under the mortgage to him, it was a right of way only to C., his heirs and assigns; and the existence of a right in the plaintiff to redeem C. did not give her the rights of C. until after redemption.

*Held*, however, that the plaintiff was entitled to a declaration of the existence of a way of necessity through the west fifty acres, which was given by way of implied grant when R. conveyed to his son.

The exercise of the implied grant was suspended during the time that the son had possession of the west fifty acres, but upon the termination of that possession the implied grant and the right of way under it were revived.

*Idington*, Q.C., for the plaintiff.

*Lash*, Q.C., for the defendant Thomas Rankin.

*Osler*, Q.C., for the defendant Natziger.

Full Court.]

[June 22.]

REGINA v. BARNETT.

*Criminal law—Larceny Act, R.S.C., c. 164, s. 65—Fraudulent conversion of negotiable securities by trustee—Letter showing trust—Identity of instruments produced with those mentioned in letter—Conversion of proceeds of securities—"Property," definition of—Sanction of Attorney-General—"Proof of.*

The defendant was indicted and convicted under the Larceny Act, R.S.C., c. 164, s. 65, for that he, being a trustee of two negotiable securities for the payment of \$5,250 each, the property of the C. Bank, for the use and benefit of the C. Bank, unlawfully and with intent to defraud, did convert and appropriate the said two negotiable securities to the use and benefit of him, the defendant, etc.

At the trial the following letter, written and signed by the defendant, dated 6th November, 1885, was produced: "I have this day been entrusted by A. (the cashier of the C. Bank) with two notes of \$5,250 each, for the specific purpose of paying two notes for \$5,000 that are due in Montreal on 8th November, 1885, and my failing this shall consider myself committing criminal offence and amenable to the criminal law."